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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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09/741,665

12/18/2000

William B. Douglas

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11/16/2006

COCHRAN FREUND & YOUNG LLC

2026 CARIBOU DR

SUITE 201

FORT COLLINS, CO 80525

EXAMINER

DUNHAM, JASON B

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/741,665             | DOUGLAS, WILLIAM B. |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Jason B. Dunham        | 3625                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-21, 24, 26, 27 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-21, 24, 26, 27 and 36-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Claims 19-21,24,26-27, and 36-38 are pending in this application. Claims 19 and 37 were amended, claim 34 was canceled, and claim 38 was added in the applicant's response filed August 28, 2006. The cancellation of claim 34 rendered the notice of non-compliance dated August 4, 2006 moot.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 19-21,24,26-27, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over FairMarket (See Pto-892 dated February 2, 2006) in view Giovannoli (U.S. Patent Application Publication No. 2006/0015413 A1).**

Referring to claim 19. The combination of FairMarket and Giovannoli discloses a method of selling goods through an electronic blind supply open commerce computer business system comprising:

- Receiving product information for said goods that is uploaded by distributors, who are not manufacturers of said goods, over a network to said computer business system which includes product identification information and a set price specified by said distributors for said goods (Giovannoli: figure 4);

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- Automatically calculating a fixed sales price from said set price specified by said distributors in said computer system (Giovannoli: figure 4);
- Automatically generating entries in said computer business system that included said fixed sales price, and said product identification information (Giovannoli: figure 4);
- Providing a listing of said goods from said entries on said computer business system without revealing said distributors so that said distributors remain anonymous to purchasers at all times while said goods are listed on said computer business system and after said goods are sold, so that said distributors may sell said goods on said electronic blind supply open commerce computer business system without affecting a pricing structure established by said distributors for said goods (FairMarket: pages 1 and 3);
- Making said listings of said goods available to said purchasers on said computer business system through a network connection to allow said purchasers to purchase said goods at said fixed sales price over said network without bidding in an auction (Giovannoli: figure 4).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method FairMarket to have included calculating a fixed sales price over a network without bidding in an auction, as taught by Giovannoli, in order to buyers to receive pricing for goods and services immediately without waiting for the results of an auction (Giovannoli: abstract).

Referring to claim 37. The combination of FairMarket and Giovannoli further discloses a method comprising:

- Automatically accepting a sales order on said computer system from a qualified purchasers that includes a purchase price that satisfies said fixed sales price (Giovannoli: figure 8);
- Automatically generating a purchase order on said computer business system in response to said sales order that includes said product information and said set price specified by said distributor for said goods (Giovannoli: paragraph 22);
- Electronically transmitting said purchase order to said distributor from said computer system (Giovannoli: paragraph 22);
- Completing that sale of said goods using said electronic blind supply open commerce business computer system (FairMarket: pages 1 and 4).

Referring to claim 20. The combination of FairMarket and Giovannoli further discloses a method wherein said process of completing the sale of said goods comprises the process of paying said distributor after said purchaser accepts said goods (Giovannoli: paragraph 23).

Referring to claim 21. The combination of FairMarket and Giovannoli further discloses a method wherein said process of completing the sale of said goods comprises the process of accepting a shipping tracking number, shipping method, and ship date (Giovannoli: paragraph 22).

Referring to claim 24. The combination of FairMarket and Giovannoli further discloses a method wherein said process of completing the sale of said goods

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comprises the process of accepting an electronic funds transfer (Giovannoli: paragraph 23).

Referring to claim 36. The combination of FairMarket and Giovannoli further discloses a method wherein said process of completing the sale of said goods comprises the process of automatically e-mailing purchase orders from said computer business system (Giovannoli: paragraph 22).

Referring to claims 26-27. The combination of FairMarket and Giovannoli further discloses a method wherein said process of automatically generating entries in said system comprises the process of generating a listing of goods that includes product information comprising a part number, product description, specifications, and category information (Giovannoli: figure 8).

Referring to claim 38. Claim 38 is rejected under the same rationale set forth above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 19-21, 24, 26-27, and 36-38 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

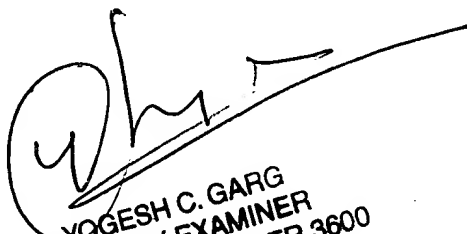
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD  
Patent Examiner  
11/13/06



YOGESH C. GARG  
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TECHNOLOGY CENTER 3600